

## AGREEMENT

This agreement resolves a long-term investigation by the United States Attorney's Office for the Western District of Missouri ("USAO") regarding alleged criminal conduct by the American Italian Pasta Company ("AIPC") under its former management. This investigation focused on allegations of accounting improprieties that adversely and materially affected the stock and financial statements of AIPC for Fiscal Years 2002 through 2004, and misrepresentations and false statements to the United States Department of Commerce relating to the antidumping program. The USAO investigated possible violations of several federal criminal laws including, but not limited to, the Securities and Exchange Act of 1934, the Sarbanes-Oxley Act of 2002, mail and wire fraud statutes, and federal statutes relating to false statements to the government. The parties to this agreement are: (a) American Italian Pasta Company, a Delaware Corporation, authorized to do business in Missouri, with its executive offices in Kansas City, Clay County, Missouri, by its undersigned officer pursuant to authority granted by its Board of Directors, and (b) the United States Attorney's Office for the Western District of Missouri, by United States Attorney John F. Wood.

1. AIPC accepts and acknowledges that, if it breaches the terms and conditions of this Agreement, the USAO reserves the right in its sole discretion to file a criminal complaint in the United States District Court for the Western District of Missouri that uses the above-described conduct as the basis for charging AIPC with violating various provisions of federal criminal law.

2. AIPC accepts and acknowledges responsibility for the behavior set forth in the Statement of Facts attached hereto as Annex A and incorporated by reference herein by entering into this Agreement and by, among other things, the remedial actions that it has taken to date, its continuing commitment of full cooperation as directed by the USAO, its agreement to pay substantial monetary fines, and the other undertakings it has made as set forth herein. AIPC agrees it will not contest the admissibility into evidence of Annex A in any subsequent criminal proceedings occurring in the event of breach of this Agreement. AIPC herein specifically rejects and does not endorse, ratify or condone improper or fraudulent conduct and, as set forth below, has taken steps to prevent such conduct from occurring in the future.

3. AIPC expressly agrees that it shall not, through its present or future attorneys, board of directors, agents, officers, or management employees, make any public statement contradicting any statement of fact contained in the Statement of Facts. Any such contradictory public statement by AIPC, its present or future attorneys, board of directors, agents, officers, or management employees shall constitute a material breach of this Agreement as governed by paragraph 13 of this Agreement, and AIPC would thereafter be subject to prosecution pursuant to the terms of this Agreement. The USAO shall have the sole discretion to decide whether any public statement by any such person contradicting a fact contained in the Statement of Facts will be imputed to AIPC for the purpose of determining whether AIPC has breached this Agreement, except that any decision made by the USAO pursuant to this paragraph shall be subject to review by the United States Attorney for the Western District of Missouri in accordance with the process and standards set forth in paragraph 13. Should the USAO decide at its sole discretion to notify AIPC of a public statement by any such person that in whole or in part contradicts a statement of fact contained in the Statement of Facts, AIPC may avoid breach of this Agreement by publicly repudiating such statement within 48 hours after such notification. AIPC agrees that in the event future criminal proceedings are brought in

accordance with Paragraphs 13 and 14 of this Agreement, AIPC will not contest the admissibility of the Statement of Facts in any such proceedings.

4. Consistent with AIPC's obligations as set forth above, AIPC shall be permitted to raise and support defenses and/or assert and support affirmative claims in civil and regulatory proceedings relating to the matters set forth in the Statement of Facts.

5. AIPC has cooperated and agrees to continue cooperating fully with the USAO, and with any other agency designated by the USAO, regarding any matter about which AIPC has knowledge. AIPC's agreement to cooperate shall extend until the completion of the USAO's investigation of any criminal activity relating to accounting improprieties and any other matters disclosed to the USAO by AIPC, including any investigations or prosecutions of others.

6. AIPC agrees that its cooperation, as agreed to in Paragraph 5 above, shall include, but is not limited to, the following:

(a) Completely and truthfully disclosing all information as may be requested by the USAO with respect to the activities of AIPC and its affiliates, and its present and former officers, agents, and employees, provided however, that AIPC shall not be required to disclose legal advice given by counsel to the Audit Committee, AIPC or its Board of Directors after the commencement of the Audit Committee investigation;

(b) Assembling, organizing, and providing on request from the USAO, all documents, records, or other tangible evidence in AIPC's possession, custody, or control;

(c) Using its best efforts to make available its employees to provide information and/or testimony as requested by the USAO, including sworn testimony before a federal grand jury or in federal trials, as well as interviews with federal law enforcement authorities. Cooperation under this paragraph will include identification of witnesses who, to AIPC's knowledge, may have material information regarding the matters under investigation.

(d) Using its best efforts to make available for interviews, or for testimony, present or former AIPC officers, directors, and employees as requested by the USAO.

(e) Providing testimony and other information deemed necessary by the USAO or a court to identify or establish the original location, authenticity, or other evidentiary foundation necessary to admit into evidence documents in any criminal or other proceeding as requested by the USAO.

7. The USAO acknowledges that prior to the execution of this agreement, AIPC took the following corrective actions:

- AIPC replaced its Chief Executive Officer and Chief Financial Officer.
- AIPC completed its Restatement.
- AIPC established an independent chairman for its Board of Directors.
- AIPC added a General Counsel, a Chief Compliance Officer, and a Director of Internal Audit.
- AIPC revised Board governance documents, including its "Governance Principles" and "Board Committee Charters."
- AIPC revised the Company's Code of Conduct and initiated training within the Company.

- AIPC revised its Confidential Reporting Hotline process to provide for robust reporting of financial, accounting and other issues.
- AIPC established a Disclosure Committee for review of public filings.
- AIPC added additional finance and accounting personnel to corporate staff, with oversight of all operations of the company through corporate finance function.
- AIPC instituted an overhaul of financial controls and procedures.

8. AIPC shall continue to comply with any currently in force written agreements between AIPC and any other federal agency as long as any such agreements shall remain in effect; as any such agreements may be amended, modified, or terminated from time to time by the respective parties to said agreements.

9. Within 45 days of execution of this Agreement, AIPC agrees to pay \$7.5 million to the United States Treasury as a monetary penalty.

10. In light of AIPC's remedial actions to date and its willingness to (i) acknowledge responsibility for its behavior; (ii) continue its cooperation with the USAO and other governmental regulatory agencies; (iii) demonstrate its future good conduct and full compliance with the securities laws and generally accepted accounting principles; and (iv) consent to payment of the monetary penalty set forth in paragraph 9 above, the USAO shall defer for a period of 24 months any criminal prosecution of AIPC pursuant to paragraph 1, and likewise defer any civil action against AIPC pursuant to 31 U.S.C. §3729-3733 et. seq.

11. The USAO agrees that if AIPC is in full compliance with all of its obligations under this Agreement for 24 months from the date of this Agreement, this Agreement shall expire. Should the USAO determine during the term of this Agreement that AIPC has committed a material breach of this Agreement, or has committed any federal crime commenced subsequent to the date of this Agreement, AIPC shall, in the sole discretion of the USAO, thereafter be subject to prosecution for any federal crimes of which the USAO has knowledge, including as set forth in introductory paragraph and paragraph 1 of this agreement.

12. Except in the event of a breach of this Agreement, all investigations and/or prosecutions relating to the matters set forth in the Statement of Facts that have been, or could have been, conducted by the USAO prior to the date of this Agreement shall not be pursued further as to AIPC. The signatories to this Agreement represent that, as of the signing of this Agreement, they are aware of no other criminal investigations relating to AIPC beyond the one described in this agreement and in the Statement of Facts set forth in Annex A.

13. Should the USAO determine that AIPC has committed a material breach of any provision of this Agreement, the USAO shall provide written notice to AIPC of the alleged breach and provide AIPC with a two-week period in which to request to make a presentation to the United States Attorney for the Western District of Missouri to demonstrate that no breach has occurred, or, to the extent applicable, that the breach is not material or has been cured. The parties hereto expressly understand and agree that should AIPC fail to request an audience with the United States

Attorney within a two-week period, it shall be conclusively presumed that AIPC is in material breach of this Agreement. The parties further understand and agree that the United States Attorney's exercise of discretion under this paragraph is not subject to review in any court or tribunal outside the United States Department of Justice. In the event of a breach of this Agreement that results in a prosecution of AIPC, such prosecution may be premised upon any information provided by or on behalf of AIPC to the USAO or other government agency at any time, unless otherwise agreed when the information was provided.

14. In case of a material breach of this Agreement, any prosecution of AIPC relating to accounting improprieties that adversely and materially affected the stock and financial statements of AIPC, or relating to misrepresentations and false statements to the United States Department of Commerce, or any crime arising from either of these categories, that is not time-barred by the applicable statute of limitations as of the date of this Agreement may be commenced against AIPC notwithstanding the expiration of any applicable statute of limitations during the deferred prosecution period and up to the determination of any such material breach. AIPC's waiver of the statute of limitations is knowing and voluntary and in express reliance on the advice of counsel.

15. AIPC agrees that, if it sells or merges all or substantially all of its business operations as they exist as of the date of this Agreement to or into a single purchaser or group of affiliated purchasers during the term of this Agreement, it shall include in any contract for sale or merger a provision binding the purchaser/successor to the obligations described in this Agreement.

16. It is understood that this Agreement is binding on AIPC and the USAO, but specifically does not bind any other federal agencies, or any state or local law enforcement or licensing authorities, although the USAO will bring the cooperation of AIPC and its compliance with its other obligations under this Agreement to the attention of other federal agencies, state and local law enforcement, or licensing authorities, if requested by AIPC or its attorneys. This Agreement also excludes any natural persons.


17. AIPC and the USAO agree that this Agreement may be publicly disclosed.

18. This Agreement sets forth all the terms of the agreement between AIPC and the USAO. No modifications or additions to this Agreement shall be valid unless they are in writing and signed by the USAO, AIPC's attorneys, and a duly authorized representative of AIPC.


19. AIPC hereby warrants and represents that the Board of Directors of AIPC has duly authorized, in a specific resolution, the execution and delivering of this Agreement by AIPC, and that the person signing the Agreement has authority to bind AIPC.

**On Behalf of the United States Attorney's Office**


9/15/08  
DATE

  
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JOHN F. WOOD  
United States Attorney  
United States Attorney's Office  
Western District of Missouri

09/15/2008  
DATE

  
\_\_\_\_\_  
PHILLIP EUGENE PORTER  
Chief, Fraud and Corruption Unit  
United States Attorney's Office  
Western District of Missouri


9/15/08  
DATE


  
\_\_\_\_\_  
JESS E. MICHAELSEN  
Assistant United States Attorney  
United States Attorney's Office  
Western District of Missouri

**On Behalf of American Italian Pasta Company**

9-12-08  
DATE

Sept 13, 2008  
DATE

  
ROBERT W. SCHULLER  
Executive Vice-President and General Counsel  
American Italian Pasta Company

  
STEPHEN L. HILL, JR.  
Husch Blackwell Sanders, LLP

## ANNEX A – STATEMENT OF FACTS

The relevant time period for the events recited herein is between on or about May 2002 and through on or about December 2004.

American Italian Pasta Company (AIPC) is and remains a publicly held Delaware corporation with its corporate headquarters in Kansas City, Missouri, within the Western District of Missouri.

Timothy S. Webster (Webster) was employed as the President and Chief Executive Officer (CEO) of AIPC. Webster resigned as President and CEO of AIPC in December 2005.

Warren B. Schmidgall (Schmidgall) was employed as the Chief Financial Officer (CFO), Senior Vice-President, and Executive Vice-President of Human Resources and Information Technology. Schmidgall resigned from AIPC in September 2005.

Beginning in October 1997, AIPC's stock was listed and traded on the New York Stock Exchange under the symbol PLB. The New York Stock Exchange suspended trading of AIPC's stock in December 2006, and AIPC's stock was delisted in April 2007.

Webster, Schmidgall, and others, engaged in a scheme to defraud the holders of AIPC stock by making materially false representations regarding the financial condition of AIPC. Webster, Schmidgall, and others, took actions, as detailed below, that fraudulently inflated the earnings AIPC reported to the investing public in order to artificially support and increase the price of AIPC stock. Further, Webster, Schmidgall, and others, through their fraudulent conduct, as detailed below, sought to support and increase the price of AIPC stock by causing AIPC to misrepresent the true earnings and growth of AIPC to the investing public.

In his role as CEO of AIPC, Webster created and instilled a corporate philosophy and tone of meeting earnings targets at all costs. Webster pressured and directed senior AIPC managers and accounting personnel to achieve earnings targets, and when actual performance fell short, he directed them to change accounting to increase reported earnings. Moreover, Webster institutionalized the use of accounting manipulations to meet earnings targets by utilizing a "Profit Attainment Task Force" of senior managers and accounting personnel to whom he dictated, or from whom he learned of, a wide variety of accounting adjustments designed to enhance reported earnings.

Webster, Schmidgall, and others, were responsible for AIPC capitalizing millions of dollars of plant operating costs. Such capitalization included capitalization of plant costs based on a budget rather than on appropriate measurement, and capitalization of additional arbitrary amounts of plant costs to offset revenue and/or earnings shortfalls.

Webster, Schmidgall, and others, were responsible for AIPC capitalizing millions of dollars of management information systems costs. The capitalization included inflated, arbitrary figures that were not based on actual measurement or appropriate calculation.

Webster, Schmidgall, and others, were responsible for overstating AIPC's spare parts inventory by approximately \$1.5 million, with a corresponding understatement of operating expenses.

Webster, Schmidgall, and others, were responsible for AIPC understating its trade promotion expenses by approximately \$9 million. This accounting was accomplished through several means including, but not limited to:

- a. capitalizing \$2.6 million of costs to the Mueller's brand acquisition (acquired from Bestfoods, Inc.);
- b. recording a \$3.4 million receivable for purported unauthorized deductions; and
- c. various other accounting methods to understate trade promotion expense by approximately an additional \$3 million.

Webster, Schmidgall, and others, were responsible for AIPC structuring round-trip cash transactions with Mrs. Leeper's, Inc. ("Leeper's") to give the false impression that Leeper's reimbursed to AIPC over \$2 million of costs, the result of which was that AIPC increased reported earnings.

Webster, Schmidgall, and others, were responsible for AIPC structuring a round-trip cash transaction with a customer to give the impression that the customer had agreed to an approximately \$346,000 retroactive price increase, the result of which was that AIPC improperly recognized revenue from this round-trip cash transaction.

Webster, Schmidgall, and others, were responsible for AIPC making false statements and representations to the United States Department of Commerce regarding the price of pasta that AIPC imported into the United States.

Webster, Schmidgall, and others, were responsible for AIPC understating research and development costs by approximately \$1 million by claiming that Atkins Nutritionals, Inc. agreed to reimburse such costs.

Webster, Schmidgall, and others, were responsible for AIPC's method of amortizing the cost of a \$2 million incentive payment to General Mills Inc., which was both inappropriate and inconsistent with the terms of the underlying contract, resulting in an understatement of expenses.

Schmidgall was responsible for AIPC overstating the company's year-end inventory balance by approximately \$1 million by failing to reduce the value of its fiscal year-end inventory to reflect the actual, as opposed to the budgeted, purchase price of durum.

Schmidgall was responsible for AIPC overstating income by approximately \$500,000 by recording a reserve of approximately \$500,000 of operating costs to the Martha Gooch brand acquisition (acquired from Gooch Food's, Inc.) and reducing actual raw materials costs by the same amount.

After AIPC issued a press release on or about August 9, 2005, that disclosed to the public certain financial statement adjustments correcting some of the accounting errors reflected above, the value of AIPC's stock fell from \$20.94 per share on August 9, 2005, to \$13.28 per share the following day.